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DEPARTMENT OF HEALTH AND HUMAN
SERVICES
DIVISION OF PUBLIC HEALTH SERVICES



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New Hampshire Conrad 30 J-1 Visa Waiver
Program Guidelines

Basis For Waiver Recommendation

Federal laws allow foreign physicians who have a valid J-1 Exchange Visitor Visa to pursue graduate medical education or training in the US. The J-1 Visa allows physicians to remain in the US until their studies/training are completed. However, upon completion of their program, the physicians must return to their home country for at least two years before they will be able to return to the US.

Physicians who are subject to, but do not wish to comply with, the two-year home country residence requirement may apply for a waiver of that requirement under any of the five grounds provided by the US Immigration and Nationality Act:

- The exchange visitor's government, must state that they have no objection to the exchange visitor not returning to the home country to satisfy the two-year foreign residence requirement of Section 212(e) of the Immigration and Nationality Act, as amended, and remaining in the U.S. if he/she chooses to do so.
- If the exchange visitor is working on a project for or of interest to a U.S. Federal Government Agency and that agency has determined that the visitor's continued stay in the U.S. is vital to one of its programs, a waiver may be granted if the exchange visitor's continued stay in the U.S. is in the public interest.
- If the exchange visitor can demonstrate that he/she will be persecuted upon return to the home country due to race, religion, or political opinion, he/she can apply for a waiver.
- If the exchange visitor can demonstrate that his/her departure from the U.S. would cause extreme hardship to his/her U.S. citizen or lawful permanent resident spouse or child, he/she may apply for a waiver. (The mere separation from family is not considered to be sufficient to establish exceptional hardship).
- Pursuant to the requirements of Public Law 103-416, a foreign medical graduate who has an offer of full-time employment at a health care facility in a designated health care professional shortage area or at a health care facility which serves patients from such a designated area, and agrees to begin employment at that facility within 90 days of receiving such a waiver, and who signs a contract to continue to work at that health care facility for a total of 40 hours per week and for not less than three years, may apply for a waiver under this basis.

Under the federal enabling law, Section 220, PL 103-416, the J-1 Visa Waiver Program is available only to an alien admitted to the United States as a nonimmigrant under Section 101 (a)(15)(J) of the Act, or who acquired status under the section after admission to the United States, to participate in an exchange program of graduate medical education or training (as of June 1, 1996).

Overview

The New Hampshire Department of Health and Human Services (NH DHHS) is committed to assuring that all New Hampshire residents have access to quality, affordable health care and has been given the responsibility within the State of New Hampshire to recommend and process J-1 Visa Waiver applications. NH DHHS has full authority for recommending J-1 Visa Waiver applications to the US Department of State (US DOS). This program is coordinated with the US DOS and US Citizenship and Immigration Services (US CIS).

The New Hampshire J-1 Visa Waiver Program increases access to primary health and mental health care in rural and urban communities that have shortages of primary care physicians and psychiatrists by helping healthcare facilities recruit foreign physicians. International medical graduates who study in the United States are required to return to their home countries for two years upon completion of residencies or fellowships. The J-1 Visa Waiver Program allows these physicians to remain in the U.S. Qualified foreign physicians must have completed their advance clinical training in an approved U.S. residency training program, must agree to work in federally-designated Health Professional Shortage Areas (HPSAs), Mental Health Professional Shortage Areas (MHPSAs), Medically Underserved Areas (MUAs), or Medically Underserved Population Areas (MUPs) for three years, and must increase access to primary health care.

The J-1 Visa Waiver Program allows New Hampshire to recommend up to thirty (30) J-1 Waiver applications per federal fiscal year (October 1-September 30), for primary care and specialists. Preference for J-1 waivers is usually given to physicians in primary care: Family Practice, Pediatrics, Obstetrics & Gynecology, Internal Medicine, Hospitalist, Geriatrics, and Psychiatry. New Hampshire accepts J-1 Visa Waiver requests from October 1-August 1st each year. New Hampshire reserves the right to recommend or decline any request for a waiver.

New Hampshire is allowed to grant ten (10) of the waivers to physicians whose work sites are not located in HPSAs, MHPSAs, or MUA/Ps but who care for patients who reside in HPSAs, MHPSAs, or MUA/Ps. These applications will be referred to as **“non-designated”** J-1 Visa Waiver applications. For “non-designated” J-1 Visa Waiver slots you need to contact the Workforce Coordinator for availability of these slots. Submission of a waiver application to be considered for the non-designated slots should clearly indicate “non-designated J-1 waiver application request” on the J-1 waiver recommendation request made by the health care facility.

New Hampshire does not maintain a list of vacancies specifically for J-1 Visa Waiver physicians or provide placement service. Many physicians search through private recruiters or employment ads or through the New Hampshire Vermont Recruitment Center, <http://www.bistatepca.org/Programs/NHVTRC/Recruitment%20Center.htm>.

Any questions about New Hampshire’s J-1 Visa Waiver Program should be directed to the Program/Workforce Coordinator, Division of Public Health Services, Rural Health & Primary Care Section, 29 Hazen Drive, Concord, NH 03301-6504, or via E-mail to droberts@dhhs.state.nh.us

General Information:

On behalf of physicians holding J-1 Visas who have been admitted to the US under a J-1 Visa on or after January 10, 1977, for the purpose of receiving graduate medical education or training, the New Hampshire Department of Health and Human Services (NH DHHS) will consider supporting up to 30 requests per Federal Fiscal Year waiving the foreign residence requirement, under the following conditions:

Requests for a New Hampshire J-1 Visa Waiver recommendation must be submitted by the health care facility or its immigration attorney. A list of immigration attorneys who have successfully worked with NH DHHS on J-1 Visa Waivers is available upon request by contacting droberts@dhhs.state.us.nh.

All application materials for state recommendations (except the US DOS “user fee”) must be submitted directly to Attn: Program/Workforce Coordinator, State of New Hampshire, Department of Health & Human Services, Division of Public Health Services, Rural Health & Primary Care Section, 29 Hazen Drive, Concord, NH 03301-6504. The Division of Public Health Services cannot recommend a J-1 Visa Waiver application to the US Department of State Waiver Division until a federal case file number is available.

Eligibility:

To be eligible, a J-1 physician must:

- Have an offer of full-time employment to work a minimum of 40 hours per week in an outpatient clinical setting at an eligible service site located in a Federally Designated (HPSA, MHPSA) or Medically Underserved (MUA/MUP) Areas;
- Sign a contract to work at the approved service site full-time for a period of not less than three years, and must be willing to serve the underserved population, Medicaid, Medicare, uninsured, and underinsured patients of New Hampshire;
- Agree in writing that employment will begin within 90 days of the effective date of the J-1 visa waiver (after the completion of the physician’s residency training);
- Have completed an approved and accredited postgraduate training program in the United States or Canada, in a terminal primary care specialty or a specialty that supports primary care;
- Prior to employment, meet all medical licensure requirements for the State of New Hampshire and the application must include a statement or copy of his/her licensure from the NH Board of Medicine;
- Obtain a US Department of State case number prior to submitting an application to the NH DHHS;
- Include either a “No Objection” letter from the home country, or a statement that the physician is not contractually obligated to return to the home country;
- Include a signed and dated statement certifying that the physician does not have any other pending J-1 Visa Waiver requests;
- Provide at least three (3) professional recommendations from the physician’s primary care residency program or fellowship/subspecialty training. Under some circumstances, a letter from the program director projecting graduation by the end of the academic year may be acceptable;
- Include a copy of the medical degree(s) or diplomas;
- Include legible copies of all IAP-66/DS-2019 Forms;

- Document satisfactory completion of all examinations that US Citizenship and Immigration Services requires; and,
- Include a curriculum vitae that documents the physician's date of birth, city and country of birth, and social security number.

To be eligible, a service site/employer must:

- Be located in a Federally Designated (HPSA, MHPSA) or Medically Underserved (MUA/MUP) Areas;
- The application for a waiver must come from a health care facility and must include a bona fide offer of employment, in the form of a completed employment contract for a period of at least three years and signed by the physician and the health care facility;
- Stipulate in the contract that the physician will be employed at least 40 hours per week in an outpatient clinical patient care setting. "On call" hours and hours spent in an inpatient acute care setting may not be included in the 40 hours;
- Describe prior recruitment/retention efforts for US citizen physicians for a minimum of six months. It must be clearly demonstrated that a suitable replacement for the physician cannot be found through other means. In addition, the health care facility's long-range plans for retention of the physician beyond the contract length must be detailed;
- Have a written agreement with the physician that employment will begin within 90 days of the effective date of the J-1 visa waiver (after the completion of the physician's residency training);
- Include in the contract the wage to be paid over the contract period. Documentation that the wage meets the prevailing wage for the specialty for the area of practice must be included in the packet;
- Employ the physician in a geographic area designated as Medically Underserved or Health Professional Shortage Area by the Secretary, US Department of Health and Human Services (unless otherwise noted as a non-designated area.) NH DHHS reserves the right to require letters of support for the J-1 Waiver from non-affiliated primary care and safety net providers within the area to be served;
- Be willing to serve the underserved population, accept Medicaid, Medicare, uninsured, and underinsured patients of New Hampshire;
- Have a sliding discount fee based on the current US Department of Health and Human Services' Federal Poverty Guidelines, <http://aspe.hhs.gov/poverty/index.shtml> as published in the Federal Register. Please explain implementation plan, and public notice, plus written commitment to their use;
- Have been operational and providing care for at least six months as of the date of the request for recommendation; and,
- Must sign a Memorandum of Agreement (MOA) between the service site, NH DHHS, and the physician that: assures the physician will treat uninsured, Medicaid, Medicare, and other vulnerable populations in New Hampshire; allows NH DHHS to conduct periodic monitoring through site visits, phone calls, or written reports; assures semi annual reports will be submitted by the facility; agrees to report any contract changes to NH DHHS in writing; confirms the J-1 employment start date, and, agrees to evaluate & treat any appropriate referrals from any other community health centers. The MOA will be provided by NH DHHS once the application has been reviewed.
- If requesting a **"non-designated" waiver slot**, the employer must provide justification for the need of a physician. Documentation supporting a non-designated waiver request must comply with the standard J-1 Visa Waiver Guidelines. However, non-designated waiver requests documentation must also support a finding that there is an extreme need for the medical service. The documentation must include:

- A description of the facility's service area. This would include, at the minimum, the geographic area of the facility the physician will work, what it encompasses and the percentage of services provided by the facility to low income/uninsured based on the ability to pay;
- An explanation of how you will ensure that Medicaid, Medicare, uninsured or underinsured clients will receive services from this physician;
- A description of the need for this physician's specialty based on the facility's demographics. (If this is a new physician position, please include that in your explanation);
- Documentation of the acceptable population-to-provider ratio for this particular specialty. List your data source(s). For instance, the Graduate Medical Education National Advisory Committee (GMENAC);
- Description of who will benefit from this service and where those patients are currently receiving this service;
- Definition of community demographics;
- Description of the current effects of not having position available in the community;
- Description of how many patients are seen regionally; include those from the nearest Community Health Center, out of town and/or county. List those regional areas;
- An explanation of the efforts your facility has made to recruit doctors who are U.S. citizens. Detail the different medical schools or conventions recruiters attended. Describe what kind of response was received; and,
- Statement of whether the physician speaks a language other than English that will reduce any language barriers in the facility's area.

The service site and the J-1 physician must:

- Accept all patients regardless of method of payment, including Medicaid, Medicare assignment and ability to pay;
- Provide services to those who have no health insurance coverage;
- Charge patients at the usual and prevailing rates in this area;
- Use a sliding-discount-to-fee scale based on ability to pay, for patients that are uninsured and at or below 200% of Federal Poverty Guidelines;
- Sign a Memorandum of Agreement (MOA) with the NH DHHS, upon review of application; and
- Insure that the physician work s40 hours in a clinical outpatient setting.

If a service site does not meet all the requirements listed above, the site is not eligible, and an application **WILL NOT** be processed.

Application Review Process:

Applications/requests for recommendation by NH DHHS will be reviewed for completeness, inclusion of all documents, appropriateness of the service site, the J-1 physician's type of specialty, and adherence to the New Hampshire J-1 Visa Waiver Program and to federal guidelines.

There are three (3) application rounds during which) New Hampshire reviews and recommends J-1 Visa Waiver applications. The first round: (Oct 1st -December 31st) applications are held until December 31st with decisions made in January & February; the second round: (January 1st -March 15th), applications are held with decisions made in middle March & April; and the third round:

(March 16th -August 1st). Each service site is granted two designated or non-designated slots during the first two rounds. If any slots are available after March 16th, the facility may apply for additional slots, which will be reviewed on a case-by-case basis and granted on a rolling basis. Designated slots will have priority over non-designated slots. NH DHHS reserves the right to hold one Non-designated slot for the discretion of DHHS Commissioner or DPHS Director.

The NH DHHS will notify the sponsoring legal representative by email regarding the status of the application when the decision has been made. If recommended by the NH DHHS, the request will be passed on to The US Department of State Waiver Review Division which reviews state recommendations and submits its recommendation to the US CIS, which makes the final J-1 Visa Waiver decision, which determines the granting of the visa waivers. The DOS will inform all parties of their decision. The complete J-1 Visa Waiver and H-1B process can take up to six (6) months. Once the visa waiver is granted, the sponsoring employer must petition US CIS for an H-1B (work) visa. US CIS must approve the H-1B visa before the foreign physician can begin his/her J-1 employment.

J-1 Applicant Checklist

The following is a list of documents to be submitted for a J-1 Visa Waiver recommendation under the New Hampshire J-1 Visa Waiver Program. Also provided are suggestions from the US Department of State (DOS) on how to put an application together that may speed up application review time. It will also speed up our review of applications so we recommend applications be assembled as follows.

- Do not include documents that are not required by DOS or the State of New Hampshire.
- Do not use staples, binders, two-sided copies or pages larger or smaller than 8.5 x 11.
- Include the DOS waiver case file number s on every page of the application.
- Place documents in the following order, separated by a colored divider page, appropriately labeled with the number in reference to the document being submitted.
- Submit the original and one copy of the application.

Application Document Order:

1. Form G-28(s) if attorney used or letterhead from law office-if applicant or employer is represented by attorney, with case file number included on each page;
2. Copy of the U.S Department of State Waiver Review Sheet application or DOS letter showing the case file number;
3. DS-3035, a completed J-1 Visa Waiver Recommendation Application Form (current edition).
4. Healthcare Facility/Employer Information (on letterhead)
 - a. A statement requesting a waiver for the physician you plan to hire.
 - b. Clear indication as a **“non-designated”** J-1 Visa Waiver application if facility is not located in a medically underserved designated area;
 - c. Description of facility: name, address, county, and services provided;
 - d. Site location if different from the primary location of sponsoring site where physician will be performing his employment: name, address, and county;
 - e. Evidence of Shortage Designation Status: Provide a copy of the US Health Resources and Services Administration (HRSA) designation to support this;

- f. Provide the total number of active patients at the practice site in the previous calendar year;
 - g. Indicate total patients, as applicable, for primary care, specialty care, and mental health services;
 - h. Of the total number of patients, provide the percentage of all current patients, broken out by age groups, making payment by conventional insurance plans, Medicare, or Medicaid in the last six (6) months;
 - i. Percentage of the facility's services provided to low income/uninsured based on the ability to pay (use of sliding fee schedule in the last 6 months);
 - Copy of your sliding fee schedule (on letterhead);
 - Your policies for implementation of sliding fee schedule, plus written commitment to its use;
 - Distance from this site to the nearest referenced sliding fee schedule clinic;
 - j. Detailed documentation to support “**non-designated**” request that there is an extreme need for the medical service in the area;
 - k. The proposed weekly work schedule of the proposed J-1 physician. Include the number of hours (with start and end times) at the location that he will be employed at. The schedule must indicate the amount of time the J-1 physician is actually providing services; do not include travel or on-call time;
 - l. Community Information:
 - Describe the location & characteristics of the area served by the healthcare facility;
 - Distance to nearest Community Health Center (if applicable);
 - Explain how the current healthcare resources are over-utilized, excessively distant, or otherwise inaccessible to the underserved population;
 - Explain how this physician's qualifications and future responsibilities will satisfy those needs and improve accessibility to care for the underserved population;
 - Provide the acceptable population-to-provider ratio for the particular specialty;
 - Explain how a denial will affect healthcare in your community.
 - m. Recruitment Efforts Over the Last Six (6) Months
 - Length of time the position has been vacant
 - Sample of efforts to recruit an American physician for the position.
 - Efforts to recruit through the National Health Service Corps: (date the site application was submitted).
 - Proof that you tried to recruit a U.S. physician: ads placed in a least one (1) major medial publication, or letters to residency programs. (Submit at least three (3) copies of ads or letters).
 - Describe any other means of recruitment that were used (Such as NH/VT Recruitment Center agreement with placement services, attendance at health fairs, etc)
 - Evidence that the salary being offered meets the prevailing wage requirement in your area.
 - n. Retention Plan:
 - Short & Long Term Plan
 - Keep in mind that today's physician looks for quality.
5. Contract Information:
- a. Submit a copy of the signed contract for employment that specifies:
 - Full time employment (40 hours in an outpatient clinical setting)
 - Three years commitment

- Primary Care or non-primary care specialties, please describe detailed description of unmet need.
 - Start date within ninety (90) days of US CIS approval
 - Commitment to serve Medicaid, Medicare, uninsured, and underinsured
 - May not contain a non-compete clause.
- b. Signed by physician and the head of the hiring facility.
6. Physician Information
- a. Brief summary of physician's key qualifications as they pertain to the community's needs.
 - b. Proof of physician's New Hampshire Medical License or licensure eligibility from the NH Board of Medicine
 - c. Personal statement from physician regarding his/her reasons for not wishing to fulfill the two-year home country residence requirement to which he/she agreed at the time of acceptance of exchange visitor status.
 - d. Include legible copies of all IAP-66/DS-2019 Forms. Forms must be submitted in chronological order "beginning of new program" first.
 - e. Curriculum Vitae: J-1 physician's resume, degrees, licenses etc.
 - f. Professional letters of recommendation for the J-1 physician (3).
 - g. Legible copies of I-94 entry and departure cards. Include photocopy of visa passport photo of physician.
 - h. A statement declaring that he/she has no other J-1 waiver requests pending with another government agency.
 - i. Statement of "No Objection" from the visitor's government if foreign government funding is involved.
7. Signed Statement of Commitment to Comply with the Requirements of the New Hampshire Department of Health & Human Services

Monitoring and Reporting Requirements for the J-1 Visa Waiver:

The NH DHHS will conduct periodic monitoring of all J-1 Visa Waiver physicians either through site visits, telephone calls, or requests for written reports.

The physician and employer must submit semi-annual reports to the NH DHHS about the population served. Reports are submitted in January and July of each year for the full three-year commitment.

Contract changes which result in termination of contract, practice location, or practice scope must be submitted in writing to the NH DHHS thirty (30) days prior to the requested change.

Upon approval of the Visa Waiver request from the US Department of State Waiver Review Division, the employer of the J-1 Waiver physician is required to work with the safety net providers in the area to provide care for the underserved population. The NH DHHS also will notify Community Health Care Facilities in your area of the placement of the J-1 Visa Waiver physician.

Effect of failure to abide by the terms and conditions of the waiver: J-1 Visa Waiver physicians who do not complete the three-year commitment to the employer/service site named in the waiver application (unless the US CIS has determined that there are extenuating circumstances or hardships to the physician), who do not work in a federally designated shortage areas, who change employment without permission from NH DHHS and the US CIS, or do not comply with the terms and conditions of the Statement of Commitment to Comply will be deemed as not maintaining their nonimmigrant status and will, therefore, be reported to the US CIS. Facilities

that are out of compliance with the terms and conditions of the Memorandum of Agreement (MOA) may not be eligible for future J-1 Visa Waiver applications.

The semi-annual report format/template is available on the NH DHHS Rural Health Primary Care web page @ <http://www.dhhs.nh.gov/DHHS/RHPC/j1.htm> and will be mailed to the employer/service site once the NH DHHS has received notification from the US DOS that the applicant has been approved for a J-1 Visa Waiver. It will be the physician's and facility's responsibility to provide the semi-annual reports in a timely manner.